

TV

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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APR 14 1992

AUDIO SERVICES

Federal Communications Commission  
Office of the Secretary

In re Applications of )

EDUCATIONAL MEDIA FOUNDATION )  
OF BRYAN/COLLEGE STATION )  
Bryan, Texas )

For Noncommercial FM Broadcast )  
Station Construction Permit )

To: Chief, Audio Services Division

93-126  
FCC File No. BPED-910924MC

PETITION TO DENY OR HOLD IN ABEYANCE

Channel 6, Inc., licensee of television broadcast station

KCEN-TV, Temple, Texas (KCEN-TV), by counsel, hereby submits this

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information is submitted and KCEN-TV has had an opportunity to review it.

### Discussion

2. On September 29, 1991, Educational Media filed an application for a noncommercial FM station to operate on Channel 210A (89.9 MHz) at Bryan, Texas. Educational Media proposes to use the station primarily to rebroadcast the programming of KSBJ(FM), Humble, Texas. The applicant proposes to operate the station on Channel 210A (89.9 MHz) with 100 watts effective radiated power and vertical polarization at an antenna height of 101 meters above average terrain. Its proposed transmitter site is 102.5 kilometers from KCEN-TV's transmitter site and is proposed to be located well within KCEN-TV's Grade B contour.<sup>2/</sup> KCEN-TV is licensed to operate on Channel 6 (82-88 MHz) with an effective radiated power of 100 kilowatts visual and 10 kilowatts aural at 573 meters above average terrain. Because KCEN-TV is located within 196 kilometers of Educational Media's proposed FM transmitter site and the proposed FM station is to operate on Channel 210, KCEN-TV is considered to be an "affected" TV Channel 6 station to be protected under Section 73.525 of the Rules.

3. On February 24, 1992, the Commission's staff sent Educational Media a deficiency letter stating that the instant

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<sup>2/</sup> See KCEN-TV's August 10, 1990 Petition to Deny the FM translator application of KSBJ Educational Foundation which also proposed to rebroadcast KSBJ(FM), involved several of the individuals involved in the instant application, and which proposed the identical transmitter site as the site proposed in the instant application (BPFT-900529TO).

application did not contain the proper exhibits to demonstrate compliance with 47 C.F.R. §73.525. Specifically, Educational Media's proposal did not include tabulations of KCEN-TV's field strength contours and the corresponding FM interfering field strength contours. The letter noted that because Educational Media did not provide the required tabulations, it was impossible to determine if the interference area plotted in its exhibit was correct. The Commission's letter went on to state that,

Further action on the application will be withheld for a period of thirty days from the date of this letter to give you an opportunity to demonstrate compliance with 47 C.F.R. §73.525. Failure to respond within this time period will result in the dismissal of the application pursuant to 47 C.F.R. §73.3568(b)...

The thirty-day period for submitting the required information expired on March 25, 1992. As of the morning of the date of this pleading, this information had still not been filed with the Commission. Because Educational Media has failed to respond to this deficiency letter, its application should either be dismissed or held in abeyance until the required material is submitted and KCEN-TV has had an opportunity to review it. Moreover, KCEN-TV reserves the right to object if Educational Media amends its application or modifies its facility in any way including, but not limited to, changing the transmitter location, power, height, frequency, or signal polarization of the antenna.

## CONCLUSION

4. KCEN-TV does not object to the proposal set forth in Educational Media's application per se. However, the public ~~interest and the Commission's own rules require that Educational~~

CERTIFICATE OF SERVICE

I, Marionetta Holmes, hereby certify that I have this 14th day of April, 1992, mailed by first class United States mail, postage prepaid, copies of the foregoing "Petition to Deny or Hold in Abeyance" to the following:

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